

# EXHIBIT 11

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE CENTRAL DISTRICT OF ILLINOIS

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4                   IN RE:   HIGH FRUCTOSE CORN SYRUP       )  
5                   ANTITRUST LITIGATION                )  
6    ) MDL No. 187  
  ) Master File 95-1477  
7                   THIS DOCUMENT RELATES TO:        )  
                  ALL ACTIONS                        )

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10                   HEARING ON PENDING MOTIONS  
11                   VOLUME 2 OF 2

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14                   MAY 18, 2004  
15                   Peoria, Illinois

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17                   BEFORE:

18                   HONORABLE MICHAEL M. MIHM  
19                   United States District Judge

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23                   Karen S. Hanna, C.S.R.  
24                   U.S. District Court Reporter  
                  Central District of Illinois  
25                   Proceedings recorded by mechanical stenography; transcript  
                  produced by computer

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1 jury, we know that we would not -- we know we would have  
2 one decision concerning the issue of damages.

3 I don't know who that helps or hurts. That's my  
4 best effort right now. I want you to think about it. If  
5 you have additional comments to make, which I'm sure you  
6 may well have, I want you to have those to me within the  
7 next 30 days or so so that I would have time to reflect on  
8 it before we meet on June 25, okay?

9 And I really mean -- I'm not tied to this, but I  
10 am tied to it to the extent of saying that liability and  
11 damages are going to be bifurcated. I'm pretty firm, very  
12 firm on that. But on the question of who is going to  
13 determine the damages, assuming liability as to both  
14 defendants, it would be a third jury.

15 Now it does raise another question that I just  
16 thought about. We would have to -- I think we would have  
17 to -- I'm not sure exactly what we tell the jury about  
18 this, but we would have to be prepared to hold the juries  
19 until we had both verdicts because if liability was found  
20 only against one, then there would be absolutely no reason  
21 to go to a third jury. That jury would hear the damages.

22 MR. SPIEGLER: We agree with that, Your Honor.

23 THE COURT: So factor that into your thoughtful  
24 discussions about this. Is there anything else that we  
25 should talk about today that we haven't covered so far?

1 Well, I do want to say, I know that there have  
2 been some rather contentious arguments here, but I do  
3 appreciate the quality of the arguments and the briefs and  
4 I do want to say I recognize that this could be a lot  
5 worse than it is and it's as good as it is because I think  
6 you've all worked quite hard. Now you have to take those  
7 efforts and multiply them by two, particularly with the  
8 depositions and the exhibit issues. But as I told you  
9 before, it doesn't get any better. It's a real pleasure  
10 to deal with lawyers of your quality and professionalism,  
11 so thank you for that. We'll see you on June 25.

12 MR. MONTAGUE: Your Honor, may I hand up a draft  
13 of the final order for Cargill so you can take a look at  
14 that?

15 THE COURT: Thank you. What time is that,  
16 3:00 o'clock tomorrow? Okay. Very good. I will give you  
17 seven days from today to provide any supplemental thoughts  
18 or cases that you have on this question about the use  
19 of -- we call it roughly the 404(b) information by the  
20 expert, proper use of that. Seven days from today. And  
21 we will be asking these questions of Professor Wolak that  
22 we talked about yesterday too.

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\* \* \* HEARING CONCLUDED \* \* \*